

SUMMARY OF STEPS NECESSARY TO PERFECT AN OREGON PUBLIC WORKS CLAIM

USE THIS INFORMATION WITH CAUTION

This summary contains general information only, and must not be construed as legal advice, or take the place of competent legal counsel. Its purpose is to provide general -- not specific -- information on SOME -- but not all -- of the steps and precautions that must be taken, so that your bond claim may be valid and may be enforced, if necessary. The bonding laws are complicated, and your procedures and follow-through on the preparation of **any bond claim should be checked by an attorney. The general information contained in this summary may be dated. Again, you should seek the advice of legal counsel for specific situations and advice as to the "then existing" status of the law. In addition, **all contractors should make sure that they are licensed with the Oregon Construction Contractors Board or determine whether an exemption may apply.****

1. Pre-claim Notice		
NONE		
2. The Claim		
When	Who	Action Required
Within 180 days after last substantial performance of labor, delivery of materials, or rental of equipment.	All original contractors subcontractors, and suppliers on Oregon Public Works Projects	Notice of the Claim must have been received by both: (1) contractor which provided the bond and (2) the contracting agency.
3. Post-Claim Notice		
NONE		
4. Action		
When	Who	Action Required
No later than 2 years after last day on the project. Not based on the Claim's date.	All Claimants.	Commence Action.

Oregon Notes (see also Federal Notes):

1. The Oregon Little Miller Act was modified by the 1993 Oregon Legislature. The legislature did not specify "who" at the state agency is supposed to receive the notice. While some state agencies may attempt to adopt specific administrative rules to specify exactly who the notice should be sent to, the legislative history of the bill suggests that it is incumbent upon the state agency to route the notice to the appropriate person after it is received. Nonetheless, to avoid any question on this issue it is suggested that separate notices to the state agency be directed to: (1) **The name of the state agency which let the contract (CAUTION!! This might not be where the work is being done)**; (2) The state agency c/o the project manager; and (3) The state agency c/o the agency's clerk, auditor, director or manager.
2. You should insure that notice is actually received before the time period expires. The time period may not be extended if the last day falls on a Saturday, Sunday or other legal holiday.
3. You should also consider giving notice directly to the surety (the bonding company) as this may expedite payment and commence the six-month time period for the recovery of attorney fees against the surety under ORS 742.061.
4. At least two notices are required:
 - a. **One** to the state agency that let the contract or the clerk or auditor of the public body if the public body is other than a state agency that let the contract; and
 - b. **One** to the contractor who furnished the bond.
5. You should make sure that the public body did not except the project from the requirements for a bond and make sure that if a bond was required it was the "right" bond. (For example, the public body for some reason may have required a bond form similar to the federal requirements which differ than the state requirements).
6. You should consider complying with any applicable Oregon Administrative Rules adopted by state agencies related to the notices.